IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

Bail Appl..No. 2247 of 2007()

CRIME NO.109/07 OF KALPAKANCHERRY POLICE STATION

PETITIONERS :

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1. IBRAHIMKUTTY,S/O.KUNJUMOHAMMED KURIKKAL, AGED 68 YEARS,THAYYIL CHEERAKUZHIYIL HOUSE, P.O CHENNARA,MALAPPURAM DISTRICT.

2. IYYATHUTTY,W/O.IBRAHIMKUTTY,AGED 60 YEARS,THAYYIL CHEERAKUZHIYIL HOUSE,P.O CHENNARA, MALAPPURAM DISTRICT.

3. JALEEL,S/O.KASIM,KUNNATH HOUSE, THUPRAMCODU AMSOM DESOM,ALUNGAL,TIRUR, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY PUBLIC PROSEUCUTOR,HIGH COURT OF KERALA,ERNAKULAM.

2. SUB INSPECTOR OF POLICE, KALPAKAMCHERRY POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/04/2007, ALONG WITH BA.2037/07 AND THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

B.A. Nos.2037 and 2247 OF 2007

Dated this the 11th day of April, 2007

O R D E R

Petitioner in B.A.No.2037/07 is the first accused and the petitioners in B.A.No.2247/07 are accused Nos.2 to 4 in Crime No.109/2007 of Kalpakancherry Police Station for an offence punishable under section 498A read with section 34 IPC. The petitioners are the husband, father-in-law, mother-in-law and brother of the mother-in-law of the defacto complainant Fathima Nisha.

2. I heard the learned counsel for the petitioners, the learned Public Prosecutor and the learned counsel appearing for the defacto complainant.

3. The marriage between Fathima Nisha and the first accused took place some time in 1994 or 1995. Two children, a daughter and a son, have been born in that wedlock. The first accused is employed abroad. Consequent on the matrimonial disputes between the spouses, the defacto complainant is living separately for the past one year. The present complaint was lodged by her alleging that she was assaulted with a reaper by accused Nos.1 and 2 on 28.3.07 soon after 12 noon and she sustained injuries. Her First Information Statement has recorded from the hospital where she was admitted.

4. Learned counsel for the petitioners would submit that it is a false case foisted at the instance of the defacto complainant's father, who is on enemical terms with the first accused as there are money disputes between the two.

5. Considering the facts and circumstances of the case, I am not inclined to grant anticipatory bail to accused Nos.1 and 2. In the case of accused Nos.3 and 4, who are the mother-in-law of the defacto complainant and the brother of the mother-in-law, I am inclined to grant anticipatory bail. Accordingly, a direction is issued to the officer-in-charge of the police station concerned to release accused Nos.3 and 4 on bail for a period of one month in the event of their arrest in connection with the above case on each of them executing a bond for Rs.10,000/- (Rupees ten thousand only) with two solvent sureties each for the like amount to the satisfaction to the said officer and subject to the following conditions:

a. 3rd petitioner (i.e., 4th accused) shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.

b. 2nd and 3rd petitioners (i.e., accused Nos.3 and 4) shall make themselves available for interrogation as and when required by the Investigating Officer.

c. 2nd and 3rd petitioners (i.e., accused Nos.3 and 4) shall not influence or intimidate the prosecution witnesses nor shall they attempt to tamper with the evidence for the prosecution.

d. 2nd and 3rd petitioners (i.e., accused Nos.3 and 4) shall not commit any offence while on bail.

e. 2nd and 3rd petitioners (i.e., accused Nos.3 and 4) shall surrender before the Magistrate concerned and seek regular bail in the meanwhile.

If the 2nd and 3rd petitioners (i.e., accused Nos.3 and 4) breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.

6. In the case of accused Nos.1 and 2, eventhough I am not inclined to grant anticipatory bail to them, I am inclined to permit them to surrender before the Investigating Officer for interrogation and then to have their application for regular bail ordered by the Magistrate having jurisdiction. Accordingly, accused Nos.1 and 2 are directed to surrender before the Investigating Officer on any day between 18.4.2007 and 20.4.2007 for the purpose of interrogation. Accused Nos.1 and 2 shall, thereafter, be produced on the same day before the Magistrate having jurisdiction, who shall release them on bail on appropriate conditions including one ensuring that they will make themselves available for

interrogation as and when required and that they will not commit any offence while on bail. It shall be open to the Magistrate to consider whether the passport of the first accused is to be got surrendered.

In the result, this application is allowed in part granting bail to accused Nos.3 and 4 but rejecting the request of the first and second accused for bail.

(V. RAMKUMAR, JUDGE)

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